

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2420 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

RAJNIKANT MANUBHAI PATEL

Versus

DEVELOPMENT OFFICER

Appearance:

MR HM PARIKH for Petitioner

MR SK PATEL, AGP for Respondent No. 3

MR ANANT S DAVE for Respondent No. 1 and 2

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 09/08/1999

ORAL JUDGEMENT

Rule. Service of rule waived by Mr. Anant Dave, learned advocate for respondents nos. 1 and 2 and Mr. S.K. Patel, Ld. A.G.P. for respondent no. 3.

2. Heard. The petitioner is an elected Sarpanch of Sojitra Gram Panchayat. He went to U.S.A. after getting

leave from Panchayat as per resolution dated 18/12/1997. One Mr. R.J. Patel, Chairman of the Sojitra Cooperative Bank Ltd., moved an application before the 1st respondent, who suspended the resolution of Sojitra Gram Panchayat. The petitioner's representative moved an application before the 2nd respondent, who granted status-quo against that order. Mr. R.J. Patel filed Revision Application before the Government and obtained stay of the order of status-quo. That is how the petitioner is before this Court praying for setting aside the order at Annexure- D passed by the 3rd respondent.

3. Short grievance of the petitioner is that the order of stay passed by the respondent no. 3 is passed without hearing the petitioner and without affording any opportunity to the petitioner of showing any cause in respect of prayer of stay of the order of the 2nd respondent.

4. Upon filing of the present petition, notice was issued and stay was granted against order dated 19/3/1998 appearing at Annexure-D passed by the respondent no.3. It was also clarified that pendency of the petition and ad-interim relief as aforesaid should not come in the way of the Appeal Committee of the Kheda District Panchayat at Nadiad hearing the appeal filed by Hasmukhbhai Chandubhai Patel against order No. VP-Vasi-177-182 dated 15/1/1998 of the Petlad Taluka Panchayat.

5. Today when the matter has been called out, it has been submitted that the matter is pending before the 2nd respondent, namely the Appeal Committee of the Kheda District Panchayat at Nadiad and it was only against interim order passed by the said appellate authority that Mr. R.J. Patel moved the Government in revision. It is not in dispute that the order of stay passed by the 3rd respondent in revision was without hearing the petitioner and even without joining the petitioner as party. In that view of the matter, following direction is issued :-

Impugned order dated 19/3/1998 appearing at Annexure-D passed by the 3rd respondent is hereby quashed and set aside in so far as the order of stay is concerned. The respondent no. 2, the Appeal Committee of the Kheda District Panchayat at Nadiad will dispose of the pending appeal as expeditiously as possible, preferably within six weeks from the date of receipt of writ of this direction.

Rule is made absolute only in the aforesaid

terms. No order as to cost.

* * *

PVR.